REMARKS

Claims 1-4 and 7-9 are pending in the application.

Claims 1-4 and 7-9 have been rejected.

Claims 1 and 7 have been amended. These amendments have been made solely for

formality reasons, and have not been made for reasons related to patentability over the cited art.

I.   REJECTION UNDER 35 U.S.C. § 102

Claims 1-4 and 7-9 were rejected under 35 U.S.C. § 102(e) as being anticipated by

Christie, IV, et al (US 6,324,265).[1] The rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if

every element of a claimed invention is identically shown in that single reference, arranged as

they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567

(Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed

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[1] Applicant notes that the first Office Action (3/15/2002) rejected the claims under § 102 over Christie. Applicant replied (6/17/2002) by providing appropriate arguments overcoming the rejection. Thus, the second Office Action (8/27/2002) agreed with Applicant's position, and withdrew the § 102 rejection, but resorted to a § 103 rejection over Christie (and affirming that Christie did not teach the autonomous feature of the server/client device data exchange transaction, but this feature would be obvious). On November 26, 2002, Applicant filed a continued prosecution application (CPA) noting that Christie and the present application were commonly owned. Thereafter, a third Office Action (7/16/2004) reiterated the prior rejection under § 103 over Christie, and again affirmed that Christie did not teach the autonomous feature of the server/client device data exchange transaction. Applicant replied (11/16/2004) and cited § 103(c) noting that Christie was unavailable as prior art for a rejection under § 103. In response, the present Office Action was issued which reverted back to rejection under § 102 (simply stating that "Christie IV has been reconsidered").

invention is found in a single prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531,

534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

The Office Action argues that Christie discloses a distributed system for establishing a

voice communication session, the system including a client device and a plurality of servers,

where each server is capable of establishing a data exchange transaction with the client device

to execute a certain function of the communication session. See, Office Action page 2

(referring only to Figure 1A). The Office Action also cites the following passage from Christie:

> IP network 100 may also include an electronic mail (e-mail) server 117 for
> processing e-mail or other messages. Examples of messages include, but are not
> limited to, e-mail, voice mail, text, audio or visual information, multimedia
> information, or programming information. A media stream server 118 provides
> multimedia connections through IP network 100 to various sources. A gatekeeper
> 115 provides and controls services through the network such as call waiting.
> Other devices may interface IP network 100, such as a device for transmitting
> video information. Communications devices are thus media independent and may
> typically process a variety of information such as, for example, voice,
> multimedia, video, and control or programming signals.

Christie, Col. 3, lines 40-53. The Office Action then goes on and states Christie "further teaches

each server being characterized in that it establishes a data exchange transaction with said client

device in a manner autonomous from a data exchange transaction between said client device and

a different server," and cites a specific passage from Christie ("Communications devices are

thus media independent") as support for the disclosure of each server establishing a data

exchange transaction with the client device in a manner autonomous from a data exchange

transaction between the device and a different server. Office Action, page 3. Applicant

respectfully submits that the mere description that a communication device is "media

independent" (i.e., capable of processing information in different formats, such as voice, multimedia, video) does not anticipate or describe Applicant's server/autonomous element or feature, as claimed in independent Claims 1, 4 and 7. Accordingly, the Office Action has failed to establish a prima facie case of anticipation with respect to all pending Claims 1-4 and 7-9.

Christie appears directed to call termination treatment options. Christie, Abstract. Christie appears to, with respect to setup and processing of a voice communication session, simply recite that a calling party attempts communication with a called party and if the call is answered, normal transmission occurs. Christie, Col. 5, lines 18-23. If the connection was not made, one of the devices may receive an indication that the session or connection was not completed. Christie, Col. 5, lines 23-33. The Christie disclosure goes on to describe various call termination treatment options. Christie, Col. 5, line 34 through Col 14, line 46.

In contrast, Applicant's present disclosure describes two prior art private branch exchanges (PBX): a centralized (PBX) as shown and described with reference to FIGURE 1, and a distributed (PBX) as shown and described with reference to FIGURE 2. As noted in Applicant's specification, and in one embodiment:

> In a specific example, the distributed system [of the Applicant's] for establishing a voice communication session is build around a network including a plurality of nodes that communicate according to the IP protocol. The system includes at least one client device forming a node of the network from which typically, the voice communication session originates. In order to establish the voice communication session, a number of functions must be executed. The execution of those functions is effected by invoking dedicated servers that reside at other nodes of the network. To cause execution of a certain function the client device communicates with the server responsible for this function and requests the necessary services from it. When the execution of the function is completed,

the server resources are released. An important aspect of the transaction client/server is that is autonomous. Typically , the server will respond to a request to execute the transaction and it will do so in a manner autonomous from a function that has been executed previously or a function that is to be executed subsequently in the functions chain to establish a voice communications session.

Specification, page 4, line 16 through page 5, line 2 (see also, Specification, page 9, line 24 through page 10, line 19). Thus, the recited data exchange transactions between the client device and the servers execute a function of the communication session, where each server establishes the data exchange transaction with the client device in a manner autonomous from the other data exchange transaction(s) of other servers. The cited portions of Christie do not appear to disclose these features.

Accordingly, the Applicant respectfully requests the Examiner withdraw the § 102(e) rejection of Claims 1-4 and 7-9.

II.   CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *rmccutcheon@davismunck.com*.
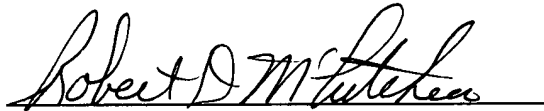
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 10/3/2005

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